

**THE MINUTES OF THE HOUSE STANDING COMMITTEE
ON
JUDICIARY**

Wednesday, May 16, 2007

9:00 a.m.

Room 521 House Office Building

The House Standing Committee on Judiciary was called to order by **Representative Paul Condino**, Chair.

MEMBERS PRESENT: Representatives Condino, Coulouris, Bieda, Corriveau, Meadows, Meisner, Scott, Virgil Smith, Warren, Schuitmaker, David Law, Elsenheimer, Stakoe, Rick Jones and Rocca.

MEMBERS ABSENT/EXCUSED: None.

Representative Schuitmaker moved to adopt the minutes of the **May 9, 2007**, meeting. There being no objection, the motion prevailed by unanimous consent.

Chairman Condino laid **SB 344** before the committee:

SB 344	Kuipers	Criminal procedure; other; certain conflicts with court rules; eliminate and harmonize with court decisions.
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TESTIMONY

Angie Doezeema, from Senator Kuipers' office, testified in support of the bill.

Chairman Condino offered the following amendment to **SB 344**:

1. Amend page 1, following "THE PEOPLE OF THE STATE OF MICHIGAN ENACT:" by inserting:

"CHAPTER I

Sec. 1. As used in this act:

(a) "Person", "accused", or a similar word means an individual or, unless a contrary intention appears, a public or private corporation, partnership, or unincorporated or voluntary association.

(b) "Act" or "doing of an act" includes "omission to act".

(c) "Property" includes any matter or thing upon or in respect to which an offense may be committed.

(d) "Indictment" means 1 or more of the following:

- (i) An indictment.
- (ii) An information.
- (iii) A presentment.
- (iv) A complaint.
- (v) A warrant.
- (vi) A formal written accusation.

(vii) Unless a contrary intention appears, a count contained in any document described in subparagraphs (i) through (vi).

(e) "Writing", "written", or a similar term refers to words printed, painted, engraved, lithographed, photographed, copied, traced, or otherwise made visible to the eye.

(f) "Magistrate" means a judge of the district court or a judge of a municipal court. Magistrate does not include a district court magistrate, except that a district court magistrate may exercise the powers, jurisdiction, and duties of a magistrate if specifically provided in this act, the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9948 600.9947, or any other statute. This definition does not limit the power of a justice of the supreme court, a circuit judge, or a judge of a court of record having jurisdiction of criminal cases under this act, or deprive him or her of the power to exercise the authority of a magistrate.

(g) "Felony" means a violation of a penal law of this state for which the offender, upon conviction, may be punished by death or by imprisonment for more than 1 year or an offense expressly designated by law to be a felony.

(h) "Misdemeanor" means a violation of a penal law of this state that is not a felony or a violation of an order, rule, or regulation of a state agency that is punishable by imprisonment or a fine that is not a civil fine.

(j) "Ordinance violation" means either of the following:

(i) A violation of an ordinance or charter of a city, village, township, or county that is punishable by imprisonment or a fine that is not a civil fine.

(ii) A violation of an ordinance, rule, or regulation of any other governmental entity authorized by law to enact ordinances, rules, or regulations that is punishable by imprisonment or a fine that is not a civil fine.

(k) "Minor offense" means a misdemeanor or ordinance violation for which the maximum permissible imprisonment does not exceed 92 days and the maximum permissible fine does not exceed \$1,000.00.

(l) "Prosecuting attorney" means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, a special prosecuting attorney, or, in connection with the prosecution of an ordinance violation, an attorney for the political subdivision or governmental entity that enacted the ordinance, charter, rule, or regulation upon which the ordinance violation is based.

(m) "Judicial district" means the following:

(i) With regard to the circuit court, the county.

(ii) With regard to municipal courts, the city in which the municipal court functions or the village served by a municipal court under section 9928 of the revised judicature act of 1961, 1961 PA 236, MCL 600.9928.

(iii) With regard to the district court, the county, district, or political subdivision in which venue is proper for criminal actions.

(n) "Complaint" means a written accusation, under oath or upon affirmation, that a felony, misdemeanor, or ordinance violation has been committed and that the person named or described in the accusation is guilty of the offense.

(o) "Clerk" means the clerk or a deputy clerk of the court.

(p) "Federal law enforcement officer" means an officer or agent employed by a law enforcement agency of the United States government whose primary responsibility is enforcing laws of the United States.

(q) "Jail", "prison", or a similar word includes a juvenile facility in which a juvenile has been placed pending trial under section 27a of chapter IV.

(r) "Juvenile" means a person within the jurisdiction of the circuit court under section 606 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606.

(s) "Juvenile facility" means a county facility, institution operated as an agency of the county or family division of circuit court, or an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, to which a juvenile has been committed under section 27a of chapter IV.

(t) "County juvenile agency" means that term as defined in section 2 of the county juvenile agency act, 1998 PA 518, MCL 45.622.

(u) "Taken", "brought", or "before" a magistrate or judge for purposes of criminal arraignment or the setting of bail means either of the following:

(i) Physical presence before a judge or district court magistrate.

(ii) Presence before a judge or district court magistrate by use of 2-way closed circuit television INTERACTIVE VIDEO TECHNOLOGY."

Representative Bieda moved to adopt the amendment.

The motion prevailed by a vote of **11-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Condino, Coulouris, Bieda, Corriveau, Meadows, Scott, Schuitmaker, David Law, Elsenheimer, Stakoe and Rocca,

Nays: None,

Pass: None.

Representative Coulouris moved to report **SB 344** with recommendation, as amended.

The motion prevailed by a vote of **11-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Condino, Coulouris, Bieda, Corriveau, Meadows, Scott, Schuitmaker, David Law, Elsenheimer, Stakoe and Rocca,

Nays: None,

Pass: None.

Chairman Condino laid **HB 4234** and **HB 4725** before the committee:

HB 4234 Wenke Corrections; jails; adoption of a jail population management plan; provide for.

HB 4725 Condino Corrections; jails; county jail population management plan; implement, and revise jail overcrowding procedures.

Vice Chair Coulouris assumed the chair.

TESTIMONY

Chairman Condino, sponsor of HB 4725, explained his bill to the committee. Questions and discussion followed.

Representative Wenke, sponsor of HB 4234, explained his bill to the committee. Questions and discussion followed.

Judy Cunningham, representing the Oakland County Criminal Justice Coordinating Council and the Oakland County Bar Association, testified and submitted written testimony in support of the bills.

Commissioner Helaine Zack, representing the Oakland County Criminal Justice Coordinating Council, testified and submitted written testimony in support of the bills.

Undersheriff Michael McCabe, representing Oakland County Sheriff Mike Brouhard, testified in support of the bills.

Carrie Klein, representing the Kalamazoo County Prosecutor's Office, testified in support of the bills.

Judge J. Richardson Johnson, representing the 9th Circuit Court of Kalamazoo, testified in support of the bills.

Judge Wendy Potts, Chief Circuit Judge for the County of Oakland, submitted a letter of support for HB 4725.

Judge Diane Dickow D'Agostini for the 48th Judicial District Court in Bloomfield Hills, submitted a letter of opposition to HB 4725.

Judge Lisa L. Asadoorian for the 52-3 Judicial District Court in Rochester Hills, submitted a letter of opposition to HB 4725.

Phil Hoffman, representing the Michigan Sheriffs' Association, submitted a card in support of the bill and was available for questions.

Kevin Oeffner, representing the Oakland County Circuit Court, submitted a card in support of the bills and was available for questions.

Tom Hickson, representing the Michigan Association of Counties, submitted a card in support of the bills and did not wish to speak.

Chairman Condino gave closing remarks.

Representative Meisner moved to adopt the substitute **(H-1)** to **HB 4725**.

The motion prevailed by a vote of **13-0-1**.

FAVORABLE ROLL CALL:

Yeas: Representatives Condino, Coulouris, Bieda, Corriveau, Meadows, Meisner, Scott, Virgil Smith, Warren, Schuitmaker, Elsenheimer, Stakoe and Rick Jones,
Nays: None,
Pass: Representative Rocca.

Representative Condino moved to report **HB 4725** with recommendation, as substitute **(H-1)**.

The motion prevailed by a vote of **11-0-3**.

FAVORABLE ROLL CALL:

Yeas: Representatives Condino, Coulouris, Bieda, Meadows, Meisner, Scott, Virgil Smith, Warren, Schuitmaker, Stakoe and Rick Jones,
Nays: None,
Pass: Representatives Corriveau, Elsenheimer and Rocca.

Representative Meadows moved to adopt the substitute **(H-1)** to **HB 4234**.

The motion prevailed by a vote of **13-0-1**.

FAVORABLE ROLL CALL:

Yeas: Representatives Condino, Coulouris, Bieda, Corriveau, Meadows, Meisner, Scott, Virgil Smith, Warren, Schuitmaker, Elsenheimer, Stakoe and Rick Jones,
Nays: None,
Pass: Representative Rocca.

Representative Meadows moved to report **HB 4234** with recommendation, as substitute **(H-1)**.

The motion prevailed by a vote of **11-0-3**.

FAVORABLE ROLL CALL:

Yeas: Representatives Condino, Coulouris, Bieda, Meadows, Meisner, Scott, Virgil Smith, Warren, Schuitmaker, Stakoe and Rick Jones,
Nays: None,
Pass: Representatives Corriveau, Elsenheimer and Rocca.

There being no further business to come before the committee, the Chair adjourned the meeting at 10:28 a.m.

Representative Paul Condino, Chair
House Standing Committee on Judiciary
Malika Abdur-Rashid
Committee Clerk
517-373-7256
1 Hour and 28 Minutes